IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 15868 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE D.N.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BHAKTA MITUL VAMANBHAI

Versus

PRINCIPAL - PATEL RAMABHAI SARVAJANIK VIDYALAYA

Appearance:

1. Special Civil Application No. 15868 of 2003

MR UTPAL M PANCHAL for Petitioner No. 1

MR DHIRENDRA MEHTA for Respondent No. 1

MR KL PANDYA PLEADER for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE D.N.PATEL

Date of decision: 07/07/2004

ORAL JUDGEMENT

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1. The present petition is preferred under Article

226 of the Constitution of India, whereby the petitioner seeks direction to the respondent no. 1 to correct the name and sex of the petitioner in the School Leaving Certificate, mainly on the basis of the judgment dated 26-3-2003 passed by this Court (Coram : Kundan Singh, J.) in Special Civil Application No.10551 of 2002 which is at Annexure-A to the memo of the petition.

2. It is contended by the learned advocate for the petitioner that when the petition was born, it was not certain as to sex of the petitioner and because of this ambiguous position, in the birth certificate issued by the Government the sex of the petitioner was mentioned as female. Ultimately, it was found that the petitioner was male child and therefore Special Civil Application No.10551 of 2002 was preferred by the petition for correction of sex from female to male in the birth certificate. In the said petition necessary direction was issued by this Court to the respondent Government vide judgment dated 26-3-2003 to the effect that the respondent should carry out necessary changes in the birth certificate issued under Section 12/17 of the Registration of Births and Deaths Act, 1969 and pursuant to the said directions, the birth certificate has already been corrected and sex of the petitioner is rectified from female to male, as per Annexure-B to the memo of the petition.

3. Learned advocate for the petitioner submitted that though the respondent Government has certified the sex of the petitioner from female to male in the birth certificate, the school authority i.e. the present respondent no. 1 is not certifying the sex and name of the petitioner and therefore the respondent no. 1 school may be directed to make necessary changes regarding name and sex of the petitioner in the school leaving certificate which is at Annexure-C to the memo of the petition.

4. Looking to the facts and circumstances of the case and the judgment dated 26-3-2003 passed by this Court in Special Civil Application No. 10551 of 2002 and considering the submissions made by the learned advocates for the parties, this petition is allowed and the respondent no.1 is directed to make necessary correction regarding sex i.e. from female to male in the column of Sex of the school leaving certificate. The respondent no. 1 is also directed to make necessary correction regarding the name of the petitioner in the school leaving certificate of the petitioner. Rule is made absolute to the aforesaid extent, with no order as to costs. D.S. is permitted.

(D.N. Patel, J.)

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